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January 19, 2007

Identity Theft Task Force (P064510)  
Federal Trade Commission/Office of the Secretary  
Room H-135 (Annex N)  
600 Pennsylvania Avenue, N.W.  
Washington, DC 20580

Re: Comments to the Identity Theft Task Force

Dear Sir/Madam:

On May 10, 2006, the President signed an Executive Order establishing the Administration's Identity Theft Task Force, directing it to develop a coordinated strategic plan to combat identity theft. The Task Force was specifically directed to make recommendations on ways to further improve the effectiveness and efficiency of the federal government's activities in the areas of identity theft awareness, prevention, detection, and prosecution. The Task Force has completed an interim report, published on September 19, 2006, addressing many of the identity theft issues presented the federal government, and is now working to complete a final strategic plan that also includes recommendations for actions that directly impact the private sector.

The ABA welcomes the opportunity to respond to the Task Force's request for comment dated December 26, 2006. Fighting identity theft is and has been a top priority for the banking industry, since ID thieves strike at the core element of banking, the trust between banker and customer. We are proud of the steps that the banking industry has taken to protect the security of customer information, and we are constantly eager to find ways of doing our job even better. That is why we appreciate the opportunity to work with the President, the financial agencies, and law enforcement to strengthen our cooperative efforts.

The ABA, on behalf of the more than two million men and women who work in the nation's banks, brings together all categories of banking institutions to best represent the interests of this rapidly changing industry. Its membership--which includes community, regional and money center banks and holding companies, as well as savings associations, trust companies and savings banks--makes ABA the largest banking trade association in the country.

In addition to this comment letter, ABA, over the course of the Task Force's deliberations, has provided information to and discussed with task force participants the substantial efforts underway, both at financial institutions and the ABA, to increase awareness of, as well as detect and deter the identity theft threat. This

information was provided at the request of the federal bank regulatory agencies that have been involved in the Task Force's efforts. ABA applauds the fact that the Task Force recognized the leading role that the banking industry has played in the efforts to impede identity theft by giving these agencies a crucial role in crafting the group's recommendations.

This letter will address three areas of importance to our industry: the need for uniform national regulatory standards, the important role that Social Security numbers can play in deterring identity theft, and the necessity for a global approach to the identity theft problem.

### **The Need for Uniform National Regulatory Standards**

As the Task Force is aware, legislation was introduced in the 109th Congress regarding the duties of those in possession of consumer data to protect it and to notify consumers, regulators, law enforcement, and other affected parties in the event of a breach of security that results in compromising access to that information. Much of that legislation recognized the value of adopting, for all entities that have access to sensitive customer information, the same data protection and notice standards that are currently in place and working successfully for financial institutions.

Much of this legislation, both at the national and the state level, also recognized that such standards, as they apply to financial institutions, should be enforced by financial institutions' functional regulators.

ABA will continue to work with the Senate, House, and the Task Force to ensure that any legislation enacted into law positively address several key principles, including the following:

- Uniform national data protection and notice standards should be extended to those not already covered by GLBA requirements.
- GLBA-regulated institutions are already subject to high regulatory standards, administered by their financial supervisors, to protect consumer data and to issue notices when breaches occur, and they should be considered to be in compliance with the law as they comply with these regulatory requirements.
- To avoid the "crying wolf" effect on consumers, broad-based consumer notices should be required only when there is a significant risk of consumer harm.
- The myriad of state data-protection and notice laws should be replaced by uniform national standards.
- To avoid supervisory and enforcement confusion, GLBA-regulated institutions should be subject to enforcement by their functional regulators, not by state attorneys general or the Federal Trade Commission.

### **Enhancing the Role of Social Security Numbers in Deterring Identity Theft**

In addition to exploring ways to achieve reduced reliance on Social Security numbers by government, the Task Force is also seeking to address the extent to which the availability of Social Security numbers to identity thieves creates the possibility of harm to consumers. To address these issues, the Task Force is considering whether to recommend further investigation and analysis of

how Social Security numbers are used in the private sector, and how these uses could be modified or limited to help minimize the unnecessary exposure of these numbers and/or make them less valuable in committing identity theft.

ABA cautions that any investigation undertaken regarding the use of Social Security numbers by the private sector should recognize that financial institutions have legitimate reasons to request Social Security numbers. For instance, financial institutions must generally request customer Social Security numbers, particularly during many account openings, in order to meet tax obligations, comply with anti-money laundering customer identification standards, and otherwise avoid the accidental mingling of customer accounts and records. This also means that banks have a pressing need to verify—on a real-time basis—that these numbers are correct. ABA recommends that the Task Force take this opportunity to improve this verification process, in which the Social Security Administration (SSA) plays a vital role.

Surveys completed by the ABA demonstrate that the point of account opening is where financial institutions are most vulnerable to identity theft and the fraud that results from it. The swift verification of the new account holder's Social Security number is an essential element in the effort to detect and deter an identity thief before financial loss occurs. As a result, the ABA has worked with the SSA to seek to improve the current system.

ABA appreciates the efforts of the SSA in developing a pilot "Consent Based Social Security Number Verification System" as one potential solution. Currently, there are technologies available that will greatly enhance the speed with which the SSA can process financial institution requests for verification of Social Security numbers. Increasing the speed of these verifications, and the attractiveness of using the system because of that speed, would significantly reduce the incidence of identity theft during the account opening process.

ABA would therefore urge the Task Force to recommend that any effort to evaluate the use of Social Security numbers by the private sector include a review of how Social Security number verification by the private sector can impede identity theft, particularly during the financial institution account opening process.

### **The Necessity for a Global Approach to the Identity Theft Problem**

To address the fact that a significant portion of the identity theft committed in the United States originates in other countries, the Task Force is considering whether there are ways that the United States can work with foreign countries to address this problem better.

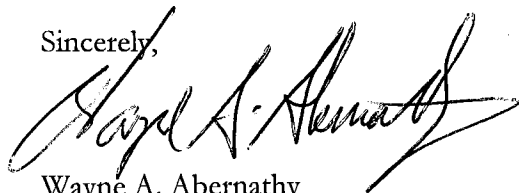
The United States has made significant progress in encouraging other countries to enact suitable domestic legislation criminalizing money laundering offenses. ABA recommends that the departments of Treasury, Justice, and State, together with the Secret Service, leverage this experience to encourage other countries to criminalize identity theft and apply effective sanctions to stop perpetrators.

One mechanism to accomplish the goal of taking a global approach to identity theft is widespread adoption of the Convention on Cybercrime. ABA endorsed the adoption of the Convention by the United States Congress, and encourages the U.S. Government to continue its efforts to promote universal accession to the Convention and assist other countries in bringing their laws and efforts into compliance with the Convention's standards.

## Conclusion

ABA appreciates the opportunity to comment on the work of the Administration's Identity Theft Task Force. We believe that this effort provides an opportunity to enhance our nation's efforts to increase identity theft awareness, prevention, detection, and prosecution. We look forward to continuing to work with the Task Force to fulfill our mutual goal of protecting our citizens from identity thieves.

Sincerely,

A handwritten signature in black ink, appearing to read "Wayne A. Abernathy", with a stylized flourish at the end.

Wayne A. Abernathy

Executive Director

Financial Institution Policy and Regulatory Affairs